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6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

8 **United States of America,**

9 **Plaintiff,**

10 **v.**

11 **Jonathan Lee Riches,**

12 **Defendant.**

**CR-18-1369-TUC-JGZ**

**SENTENCING MEMORANDUM**

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14 **SENTENCING MEMORANDUM**

15 **I. INTRODUCTION**

16 Mr. Riches committed the instant offense in part due to his mental  
17 health issues and in part because of substance abuse history. Mr. Riches  
18 requests forgiveness from this Court for his actions. He would like the court  
19 to know that he is working to better himself while under court supervision  
20  
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1 Mr. Riches requests a sentence of a term of probation of five years, as  
2 recommended in the presentence report, in accordance and in agreement with  
3 the plea agreement in this case.

## 4 II. SENTENCING OPTIONS

5 In United States v. Booker, 125 S. Ct. 738 (2005), the Supreme Court  
6 found mandatory enforcement of the United States sentencing guidelines to be  
7 unconstitutional, but preserved the guideline sentencing scheme by severing  
8 those provisions of the Sentencing Reform Act that made the guidelines  
9 mandatory. Consequently, the guidelines are now “effectively advisory.”  
10 Booker, 125 S.Ct. at 757; United States v. Ameline [Ameline III], 409 F.3d  
11 1073, 1077 (9th Cir. 2005). As modified, sentencing courts are to consider  
12 guidelines ranges but are permitted to tailor sentences in light of other  
13 statutory concerns. See 18 U.S.C. § 3553(a); Booker, 125 S.Ct. at 757-69. In  
14 other words, sentencing courts, “while not bound to apply the guidelines, must  
15 consult those guidelines and take them into account when sentencing.”  
Booker, 125 S.Ct. at 767 (citation omitted).

16 Under Booker’s remedial scheme, courts should follow the same  
17 procedures already employed under the guidelines, first resolving all disputes  
18 about the application of the guidelines in compliance with Fed. R. Crim. P.  
19 32(I) and then determining the advisory guideline range. Under 18 U.S.C. §  
20 3553(a), the Court must arrive at and “impose a sentence sufficient, but not  
21 greater than necessary, to comply with the purposes of sentencing set forth”  
22 here:

1 (2) the need for the sentence imposed—

2 (A) to reflect the seriousness of the offense, to promote  
3 respect for the law, and to provide just punishment for the  
4 offense;

5 (B) to afford adequate deterrence to criminal  
6 conduct;

7 (C) to protect the public from further crimes of the  
8 defendant; and

9 (D) to provide the defendant with needed educational or  
10 vocational training, medical care, or other correctional  
treatment in the most effective manner.

11 18 U.S.C. § 3553(a)(2). In doing so, the Court is called upon to consider these  
12 factors:

13 (1) the nature and circumstances of the offense and the  
14 history and characteristics of the defendant;

15 . . . .

16 (3) the kinds of sentences available;

17 (4) the kinds of sentence and the sentencing range  
18 established for—

19 (A) the applicable category of offense committed by  
20 the applicable category of defendant as set forth in  
21 the guidelines . . . ;

22 (5) any pertinent policy statement . . . [issued by the  
23 Sentencing Commission];

1 (6) the need to avoid unwarranted sentence disparities  
2 among defendants with similar records who have been  
3 found guilty of similar conduct; and

4 (7) the need to provide restitution to any victims of the  
5 offense.

6 18 U.S.C. § 3553(a). Thus, 18 U.S.C. § 3553(a) instructs a sentencing court to  
7 consider the established guideline sentencing range, subsection (4), as one of  
8 many factors relevant in determining a reasonable sentence.

### 9 **III. REASONS FOR A LENIENT SENTENCE**

10 Mr. Riches is a person who has suffered and continues to suffer  
11 from mental health problems that affect his decision -making faculties. While  
12 this is no excuse for his actions, it does mean that mental health treatment,  
13 with the use of medication if so indicated, can lead to Mr. Riches leading a law-  
14 abiding life. Thus, a term of five years of probation can make sure that the  
15 United States Probation Office can monitor Mr. Riches so that he is on the  
16 correct medication, if any, to deal with his mental health issues.

17 Mr. Riches has also been attempting to become a better citizen.  
18 Last year, he took part in a food drive to help the victims of Hurricane Michael  
19 in the Florida panhandle. He has also volunteered to clean up streets both in  
20 Pennsylvania, where his parents live, and in the local roads where he lives in  
21 Florida. Although these may be small steps, it indicates an individual who is  
22 on his way to moving past his previous bad actions.

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**IV. CONCLUSION**

Mr. Riches committed this offense in part due to his mental health issues. The plea agreement, with a sentence of five years of supervised probation, guarantees that he will be monitored so that he will not engage in this type of behavior, and if he does he would suffer harsh consequences, and also makes sure that he gets needed medical treatment which also lessens the likelihood of recidivism.

**RESPECTFULLY SUBMITTED** this 25<sup>th</sup> day of March 2019.

**/s/ Saul M. Huerta**

**SAUL M. HUERTA**

Attorney for Defendant

Copy to:

THE HONORABLE JENNIFER G. ZIPPS  
United States District Court

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CHRISTY A. FERASIN  
U.S. Probation Officer